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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,397	11/26/2001	David N. Fernandes	020174-004210US	1799
20350	7590	10/21/2003	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			CHAMBERS, A MICHAEL	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 10/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/995,397

Applicant(s)

FERNANDES ET AL.

Examiner

A. Michael Chambers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/16/03
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-34, 47-51 and 54-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 19-34, 47-51 and 54-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5. 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

1. This action is in response to an election requirement filed October 16, 2003. An informational disclosure document (IDS) filed January 28, 2002, has been considered.

#### ***Election/Restriction***

2. Applicant's election of the claims of Group III without traverse of in Paper No. 8 is acknowledged. Claims 1-18, 35-46, 53, and 53 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claims of Groups I, II, IV and IV, respectively, there being no allowable generic or linking claim. Claims 1-18, 35-46, 52 and 53 of those respective Groups have been canceled by the response filed October 16, 2003. An action on the merits of claims 19-34, 47-51, and 54-58 (claims of Group III) is included in this Office action.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 19-34, 47-51, and 54-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Brychita et al. In particular note the disclosure of the binary logic elements defining a OR

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gate, NOR gate, AND gate and NAND gate discussed in column 7, lines 49+, for example. With regard to the recitation of a flip-flop note the discussion of Figure 26 which clearly shows a microfabricated device is a flip-flop. See column 11, lines 32+. A plurality of switches are shown. Resistor and capacitor recitation is readable on the "wells" and restricted flow paths shown in Figure 26, etc. Elastomeric layers 11 are shown in Figure 26. The device is capable of performing a plurality of mathematical functions (i.e., logic).

### *Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication communications from the Examiner should be directed to A. Michael Chambers whose telephone number is (703) 308-1016 (FAX (703) 308-7765). The Examiner can normally be reached on Mon-Thur. 6:30am-5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on 703-308-1272. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0851.

amc  
October 19, 2003

A handwritten signature in black ink, consisting of a stylized lowercase 'a' followed by a long horizontal stroke that extends to the right.

**A. MICHAEL CHAMBERS  
PRIMARY EXAMINER  
ART UNIT 3753**